



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2005

Lieutenant William Ryan
Records Division
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2005-03855

Dear Lt. Ryan:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 223351.

The Pharr Police Department (the "department") received a request for the 911 tape relating to a particular stabbing. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that the requested information has been previously ruled upon by this office in Open Records Letter Nos. 2004-3218 (2004), 2004-3696 (2004), and 2004-4751A (2004), and that these rulings should be relied on as previous determinations. In Open Records Letter Nos. 2004-3218, 2004-3696, and 2004-4751A, we concluded that the department must withhold the responsive 911 tape under section 552.101 in conjunction with section 58.007 of the Family Code. Thus, in accordance with these Open Records Letters, the department must withhold the responsive 911 tape under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. *See* Open Records Decision No. 673 (establishing criteria for previous determinations); *see also* Gov't Code 552.301(a) (stating that governmental body may withhold information from disclosure without seeking decision from attorney general if attorney general has previously ruled on exact information).

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

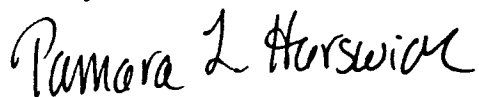
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Tamara L. Harswick". The signature is written in a cursive, flowing style.

Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/sdk

Ref: ID# 223351

Enc. Submitted documents

c: Mr. Ray Pedraza
KGBT-TV Reporter
1212 W. Expressway 83
Pharr, Texas 78577
(w/o enclosures)